

## **REMARKS**

### **Claim Rejections**

Claim 16 stands rejected under 35 U.S.C. 112 as allegedly failing to comply with the written description requirement.

Claims 8, 10-17, 24-24, 27-29, 31-33, 39-40, 42-44, and 46-48 stand rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 7,017,071 (Katayama) in view of U.S. Patent Publication No. 2002/0184363 (Viavant).

Claims 18, 30, and 45 stand rejected under 35 U.S.C. 103(a) as unpatentable over Katayama and Viavant and further in view of U.S. Patent No. 6,813,733 (Li).

### **Claim Amendments**

Claim 16 has been amended for clarification purposes.

Claims 8, 13, 24, and 39 have been amended to patentably distinguish over the cited references. The amendments are supported in the application as filed, for example, at page 4, lines 3-34.

### **Rejection under 35 U.S.C. § 112**

Applicants' respectfully note that claim 16 was present in the application as originally filed and is thus supported in the application as filed. However, in order to expedite prosecution, claim 16 has been amended for clarification purposes. Thus, it is respectfully requested that the rejection of claim 16 under 35 U.S.C. § 112 be withdrawn.

### **The Cited References**

Katayama is directed to a remote site managing system including a managing site and a managed site. At the managed site, there are general-purpose computers and peripheral devices. The general-purpose computers include a PC 103 and a device monitoring server 203a. The peripheral devices include a copying machine 101, a printer 105 and a printer 104 which are all connected via a LAN. (Col. 4, lines 50-60). At the managing site, there is a center server 110, an inventory database 109 and a device center server 210. (Col. 5, lines 14-20).

Viavant is directed to techniques for server-control measurement of client-side performance. (§0029). In one embodiment, a client device 110 executes a client process 114 which requests a service from an application executing on a server device connected to a

network 120. A server device 102 includes an application 104, which is a process that provides a service over the network in response to a request from a client process. (§0030).

Li is directed to a communication system for providing customer service to a subscriber based at least in part on information relating to a client system. (Col. 1, lines 10-15). An exemplary process 700 for providing customer service to a subscriber of a communications system is shown in Fig. 7. The process 700 may be implemented on a communication system 600 of Fig. 6. A subscriber may report a problem using emails. (Col. 12, lines 21-36).

### **Applicants' Claimed Invention Would Not Have Been Obvious**

Three criteria must be met to establish obviousness. First, the prior art must provide one of ordinary skill in the art with a suggestion or motivation to modify or combine the teachings of the references relied upon in rejecting the claims. Second, the prior art must provide one of ordinary skill in the art with a reasonable expectation of success. Third, the prior art, either alone or in combination, must teach or suggest each and every limitation of the rejected claims. The teaching or suggestion to make the claimed invention, as well as the reasonable expectation of success, must come from the prior art and not from Applicants' disclosure. If any one of these criteria is not met, a case of obviousness is not established. Also, some articulated reasoning with rational underpinnings must be provided to support a *prima facie* case of obviousness.

For at least the reasons set forth below, the combination of Katayama and Viavant does not result in Applicants' claimed invention. Thus, a *prima facie* case of obviousness has not been made out.

The independent claims recite a probe located at a computer remote from a central server. The probe is configured to determine a value for a metric related to operating status information associated with one or more applications running at the remote computer. For example, the probe may determine the number of fixes applied to software on the computer or the number of transactions that occur in a given day in a database on the computer. (Application, page 4, lines 25-33). In this way, information relating to the internal health of an application running at the computer may be detected by the probe and reported to the central server. (Application, page 2, lines 7-12).

The Office Action suggests that the PC client monitoring module described in Katayama is analogous to the probe recited in the claims. (Office Action, page 3, lines 17-25). However, the PC client monitoring module discussed in Katayama is not configured to monitor applications running on the computer on which the PC client monitoring module is installed. Instead, the monitoring module in Katayama is configured to detect the occurrence of a failure in

other devices on the client's network, such as peripheral devices. (Col. 19, lines 58-67; col. 20, lines 1-37). For example, Katayama states "When the PC monitoring client module 203d detects a failure in some server or a PC, the PC monitoring client module 203d issues a failure event directly to the center server 110." (Col. 9, lines 1-4). Thus, Katayama discloses a central monitoring program at a single location on the client's network, not a probe located on each computer that is monitored. The PC monitoring client discussed in Katayama is, therefore, fundamentally different from the probe recited in the claims, which is configured to monitor applications running at the computer on which the probe is installed.

Further, the probe recited in the claims is configured to determine a value at scheduled times. In this way, the probe can monitor operating status information, such as the number of installed updates or a number of database transactions at the computer. In contrast, the monitoring module described in Katayama generates message only when the a failure event has occurred or is likely to occur. (Abstract). For example, Katayama states that "[i]f an event occurs, the event is analyzed (step S601)." (Col. 12, line 21). Katayama does discuss including the date and time at which a detected failure occurred when transmitting a message relating to the detected failure. (Col. 20, lines 59-64; col. 7, lines 11-14). However, as discussed above, sending the message is triggered by the detection of a failure, not according to a timer or schedule. Thus, Katayama fails to disclose or suggest a probe configured to determine, at scheduled times, a first value for a first metric relating to operating status information associated with one or more applications running at the computer, as recited in the claims.

Viavant fails to disclose or suggest the same features lacking in Katayama. The Office Action suggests that the measurement instrument code described in Viavant is analogous to the probe recited in the claims. (Office Action, page 4, lines 12-19). However, the measurement instrument code described in Viavant is related to measuring "performance related to the service provided by the application 104," which is located on the server. (§ [0034]). The performance information measured by the instrument code may include, for example, response time measurements when making requests to the server from the client device. (§ [0060]-[0064]). Thus, although the performance is measured from the client side, the measured performance relates to client-server interaction over a network and not status information of one or more applications running on the client computer, as recited in the claims. Additionally, the measurement instrument code described in Viavant is inserted into items returned by the server, so the monitoring is done at the direction of the server. (§ [0034]). This is fundamentally different than the probe recited in the claims, which is installed at the computer and configured to monitor the status of applications running at the computer at a remote site in a casino.

Further, nowhere does Viavant disclose or suggest that the measurement instrument code is configured to determine a value at scheduled times. (§ [0034]). In contrast, the measurement instrument code described in Viavant is inserted by the server before an item reaches the client and is run by the client when the item is received. For example, Viavant states that “the modified item 107 includes code which, when received by the client process 114, causes one or more processors on the client device 110 to measure performance related to the service provided by the application 104.” (§ [0034]). Nowhere does Viavant suggest that the code is executed at scheduled times. Further, the claims recite a probe that is “installed” at the computer, which suggests a persistent presence. In contrast, the measurement instrument code in Viavant consists of different pieces of code that are inserted into various responses by a server and that are run by the client when the responses are received. (§ [0034]). Thus, the measurement instrument code is not analogous to a probe that is installed at the computer, as recited in the claims.

Additionally, both Viavant and Katayama fail to disclose or suggest any probe located on a computer in a casino location, as recited in the claims. Computers and networks located associated with gaming and casinos have specific operating and security requirements not present in other environments. Thus, the teachings of Viavant and Katayama are generally inapplicable to the present disclosure.

Li is not cited in the Office Action as disclosing any feature of an independent claim and thus is not discussed herein.

Therefore, the cited references, considered alone or in combination, fail to disclose or suggest several features recited in the independent claims. The dependent claims include all of the features recited in the independent claims on which they are based. Thus, is respectfully requested that the rejection to the claims under 35 U.S.C. 103(a) be withdrawn.

## **Conclusion**

In view of the foregoing, it is respectfully submitted that all the claims are now in condition for allowance. Accordingly, allowance of the claims at the earliest possible date is requested.

If prosecution of this application can be assisted by telephone, the Examiner is requested to call Applicants' undersigned attorney at (510) 663-1100.

If any fees are due in connection with the filing of this amendment (including any fees due for an extension of time), such fees may be charged to Deposit Account No. 504480 (Order No. IGT1P319).

Dated: June 2, 2009

Respectfully submitted,  
Weaver Austin Villeneuve & Sampson LLP

/William J. Egan, III/

William J. Egan, III  
Reg. No. 28,411

P.O. Box 70250  
Oakland, CA 94612-0250